

UNITED STATES COURT  
EASTERN DISTRICT OF NEW YORK

CV 12 - 3562

GOVERNMENT EMPLOYEES INSURANCE  
COMPANY, GEICO INDEMNITY COMPANY,  
GEICO GENERAL INSURANCE COMPANY  
and GEICO CASUALTY COMPANY,

ANSWER  
Defendants Demand trial  
by Jury

Plaintiffs,

- against-

YEVGENIY MARGULIS, PH.D., CHANELLE  
RICHARDS, PH.D., MARY OWENS, ANDRIY  
KOSTYNYUK, COMPREHENSIVE PSYCHOLOGICAL  
EVALUATION, P.C., AMERICAN PSYCHOLOGICAL  
CARE, P.C., PSYCHOLOGY YME, P.C., a/k/a  
PSYCHOLOGICAL YME, P.C., PSYCHOLOGICAL  
EVALUATION & TESTING SERVICES, LLC and  
REHAB PSYCHOLOGICAL SERVICES, P.C.

Defendants,

Defendants YEVGENIY MARGULIS, PhD., MARY OWENS, ANDRIY  
KOSTYNYUK, COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., AMERICAN  
PSYCHOLOGICAL CARE, P.C., and PSYCHOLOGY YME, P.C., a/k/a PSYCHOLOGICAL  
YME, P.C., by their attorneys Nathan L. Dembin & Associates, P.C., as and for an Answer to  
Plaintiff's Complaint respectfully sets forth, upon information and belief as follows:

**AS AND FOR AN ANSWER TO PLAINTIFF'S COMPLAINT ENTITLED**

**"NATURE OF THE ACTION"**

1. Denies each and every allegation contained in paragraphs "1" (i) and (ii), "2" (i) through (iii), "3" (i) through (iv), "4" and "5" of plaintiff's complaint.

**AS AND FOR AN ANSWER TO PLAINTIFF'S COMPLAINT ENTITLED**  
**"JURISDICTION"**

**I Plaintiffs**

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "6" of plaintiff's complaint and respectfully refers all questions of law to the trial court.

**II Defendants**

3. Denies each and every allegation contained in paragraph "7" of plaintiff's complaint except admits, that defendant Yevgeniy Margulis is a licensed psychologist who was convicted for permitting a bill to be mailed while the facility he was employed at was awaiting approval of a pending application.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "8" of plaintiff's complaint.
5. Denies each and every allegation contained in paragraph "9" of plaintiff's complaint except admits, that defendant Mary Owens had a New York permit for Mental Health Counseling and resides in the State of New York.
6. Denies each and every allegation contained in paragraph "10" of plaintiff's complaint except admits, that defendant Andriy Kostynyuk is a New York licensed Mental Health Counselor and resides in the State of New York.
7. Denies each and every allegation contained in paragraph "11" of plaintiff's complaint except admits defendant Comprehensive is a New York corporation with its principal place of business in New York.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "12" of plaintiff's complaint.
9. Denies each and every allegation contained in paragraph "13" of plaintiff's complaint except admits defendant Psychology YME, P.C., a/k/a Psychological YME, P.C., is a New York corporation with its principal place of business in New York.
10. Denies each and every allegation contained in paragraph "14" of plaintiff's complaint except admits defendant American Psychological Care, P.C., is a New York corporation with its principal place of business in New York.
11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "15" of plaintiff's complaint.

**AS AND FOR AN ANSWER TO PLAINTIFF'S COMPLAINT ENTITLED**

**"THE PARTIES"**

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "16" and "17" of plaintiff's complaint and respectfully refers all questions of law to the trial court.

**AS AND FOR AN ANSWER TO PLAINTIFF'S COMPLAINT ENTITLED**

**"ALLEGATIONS COMMON TO ALL CLAIMS"**

**I      An Overview of the No-Fault Laws**

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "18", "19", "20", "21", "22", "23", "24" (i) through (iii), "25", "26", "27" and "28" of plaintiff's complaint and respectfully refers all questions of law to the trial court.

**II      The Defendants' Fraudulent Treatment Protocol**

14. Denies each and every allegation contained in paragraphs “29”, “30”, “31”, “32”, “33”, “34” and “35” of plaintiff’s complaint.

**A. The Fraudulent “Diagnostic Interview Examination” and “Record Evaluation Charges**

15. Denies each and every allegation contained in paragraphs “36”, “37”, “38” and “39” of plaintiff’s complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs “40”, “41”, “42” and “43” of plaintiff’s complaint.

17. Denies each and every allegation contained in paragraphs “44”, “45”, “46”, “47” (i) through (iv), “48”, “49”, “50”, “51”, “52”, “53”, “54” (i) through (iii) and “55” of plaintiffs complaint.

**B. The Fraudulent Initial “Psychotherapy” Charges**

18. Denies each and every allegation contained in paragraphs “56”, “57”, “58” , “59”, “60”, “61” and ”62” of plaintiff’s complaint.

**C. The Fraudulent Follow-Up Therapy Charges**

19. Denies each and every allegation contained in paragraphs “63”, “64”, “65” and “66 of plaintiff’s complaint.

**D. The Fraudulent “Psychological Testing” Charges**

20. Denies each and every allegation contained in paragraph “67” of plaintiff’s complaint.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs “68”, “69 and “70” of plaintiff’s complaint and respectfully refers all questions of fact to the jury.

22. Denies each and every allegation contained in paragraph "71" of plaintiff's complaint and respectfully refers all questions of fact to the jury.

23. Denies each and every allegation contained in paragraphs "72", "73" (i) through (iv), "74" (i) through (iv), "75", "76", "77" (i) through (iii), "78", "79", "80", "81", "82", "83" (i) through (iv) and "84" of plaintiff's complaint.

**E. The Fraudulent Billing for Cognitive Therapy Sessions**

24. Denies each and every allegation contained in paragraphs "85", "86", "87", "88" and "89" of plaintiff's complaint.

**F. The Fraudulent Billing For Services That Never are Provided in the First Instance**

25. Denies each and every allegation contained in paragraphs "90", "91" (i) through (x), "92" and "93" of plaintiff's complaint.

**IV. The Fraudulent NF-3 Forms Submitted to GEICO**

26. Denies each and every allegation contained in paragraphs "94" and "95" (i) through (ii) of plaintiff's complaint.

**V. The Defendants' Fraudulent Concealment and GEICO's Justifiable Reliance**

27. Denies each and every allegation contained in paragraphs "96", "97", "98", "99", "100" and "101" of plaintiff's complaint.

28. Denies each and every allegation contained in paragraph "102" of plaintiff's complaint except admits law firms have been hired to pursue collection of claims from GEICO.

29. Denies each and every allegation contained in paragraph "103" of plaintiff's complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs "104" and "105" of plaintiff's complaint and respectfully refers all questions of law to the trial court and fact to the jury.

31. Denies each and every allegation contained in paragraph "106" of plaintiff's complaint.

### **FIRST CAUSE OF ACTION**

#### **Against All Defendants**

#### **(Declaratory Judgment- 28 U.S.C. §§ 2201 and 2202)**

32. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "107" as though more fully set forth at length herein.

33. Denies each and every allegation contained in paragraphs "108", "109", "110" and "111" (i) through (iii) of plaintiff's complaint.

### **SECOND CAUSE OF ACTION**

#### **Against Margulis**

#### **(Violation of RICO, 18 U.S.C. § 1962 (c))**

34. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "112" as though more fully set forth at length herein.

35. Denies each and every allegation contained in paragraphs "113", "114", "115", "116", "117" and "118" of plaintiff's complaint.

### **THIRD CAUSE OF ACTION**

#### **Against the Margulis , Owens and Kostynyuk**

#### **(Violation of RICO, 18 U.S.C. § 1962 (d) )**

36. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "119" as though more fully set forth at length herein.

37. Denies each and every allegation contained in paragraphs “120”, “121”, “122”, “123”, “124”, and “125” of plaintiff’s complaint.

#### **FOURTH CAUSE OF ACTION**

**Against Comprehensive and Margulis**

**( Common Law Fraud)**

38. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “126” as though more fully set forth at length herein.

39. Denies each and every allegation contained in paragraphs “127”, “128” (i) through (ii), “129”, “130”, “131, and “132” of plaintiff’s complaint.

#### **FIFTH CAUSE OF ACTION**

**Against Owens and Kostynyuk**

**( Aiding and Abetting Fraud)**

40. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “133” as though more fully set forth at length herein.

41. Denies each and every allegation contained in paragraphs “134”, “135”, “136”, “137”, “138” and “139” of plaintiff’s complaint.

#### **SIXTH CAUSE OF ACTION**

**Against Comprehensive, Margulis , Owens, and Kostynyuk**

**(Unjust Enrichment)**

42. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “140” as though more fully set forth at length herein.

43. Denies each and every allegation contained in paragraphs “141”, “142”, “143” and “145” of plaintiff’s complaint.

## **SEVENTH CAUSE OF ACTION**

### **Against Margulis**

#### **(Violation of RICO, 18 U.S.C. § 1962 (c) )**

44. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “146” as though more fully set forth at length herein.

45. Denies each and every allegation contained in paragraphs “147”, “148”, “149”, “150”, “151” and “152” of plaintiff’s complaint.

## **EIGHTH CAUSE OF ACTION**

### **Against Margulis ,Owens and Kostynyuk**

#### **(Violation of Rico , U.S.C.. § 1962 (d) )**

46. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “153” as though more fully set forth at length herein.

47. Denies each and every allegation contained in paragraphs “154”, “155”, “156”, “157”, “158” and “159” of plaintiff’s complaint.

## **NINTH CAUSE OF ACTION**

### **American and Margulis**

#### **(Common Law Fraud)**

48. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “160” as though more fully set forth at length herein.

49. Denies each and every allegation contained in paragraphs “161”, “162” (i) through (ii), “163”, “164”, “165” and “166” of plaintiff’s complaint.

**TENTH CAUSE OF ACTION****Against Owens and Kostynyuk****( Aiding and Abetting Fraud)**

50. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "167" as though more fully set forth at length herein.

51. Denies each and every allegation contained in paragraphs "168", "169", "170", "171", "172" and "173" of plaintiff's complaint.

**ELEVENTH CAUSE OF ACTION****Against American, Margulis ,Owens and Kostynyuk****( Unjust Enrichment)**

52. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "174" as though more fully set forth at length herein.

53. Denies each and every allegation contained in paragraphs "175", "176", "177", "178" and "179" of plaintiff's complaint.

**TWELFTH CAUSE OF ACTION****(Violation of RICO, U.S.C.. § 1962 (c) )**

54. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "180" as though more fully set forth at length herein.

55. Denies each and every allegation contained in paragraphs "181", "182", "183", "184", "185" and "186" of plaintiff's complaint.

**THIRTEENTH CAUSE OF ACTION****Against Margulis, Owens and Kostynyuk****(Violation of RICO, U.S.C.. § 1962 (d) )**

56. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "187" as though more fully set forth at length herein.

57. Denies each and every allegation contained in paragraphs "188", "189", "190", "191", "192" and "193" of plaintiff's complaint.

#### **FOURTEENTH CAUSE OF ACTION**

**Against Psych YME and Margulis**

**( Common Law Fraud)**

58. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "194" as though more fully set forth at length herein.

59. Denies each and every allegation contained in paragraphs "195", "196" (i) through (ii), "197", "198", "199" and "200" of plaintiff's complaint.

#### **FIFTEENTH CAUSE OF ACTION**

**Against Owens, and Kostynyuk**

**( Aiding and Abetting Fraud)**

60. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "201" as though more fully set forth at length herein.

61. Denies each and every allegation contained in paragraphs "202", "203", "204", "205", "206" and "207" of plaintiff's complaint.

#### **SIXTEENTH CAUSE OF ACTION**

**Against Psych YME, Margulis, Owens and Kostynyuk**

**( Unjust Enrichment)**

62. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "208" as though more fully set forth at length herein.

63. Denies each and every allegation contained in paragraphs “209”, “210”, “211”, “212” and “213” of plaintiff’s complaint.

**SEVENTENTH CAUSE OF ACTION**

**Against Richards**

**(Violation of RICO, U.S.C.. § 1962 (c) )**

64. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “214” as though more fully set forth at length herein.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in “215”, “216”, “217”, “218” and “219” of plaintiff’s complaint.

66. Denies each and every allegation contained in paragraph “220” of plaintiff’s complaint.

**EIGHTEENTH CAUSE OF ACTION**

**Against Richards, Margulis, Owens and Kostynyuk**

**(Violation of RICO, U.S.C.. § 1962 (d) )**

67. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “221” as though more fully set forth at length herein.

68. Denies each and every allegation contained in paragraphs “222”, “223”, “224”, “225”, “226” and “227” of plaintiff’s complaint.

**NINETEENTH CAUSE OF ACTION**

**Against Rehab and Richards**

**(Common Law Fraud)**

69. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “228” as though more fully set forth at length herein.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in “229”, “230” (i) through (ii), “231”, “232” and “233” of plaintiff’s complaint.

71. Denies each and every allegation contained in paragraph “234” of plaintiff’s complaint.

## **TWENTIETH CAUSE OF ACTION**

**Against Margulis, Owens and Kostynyuk**

**( Aiding and Abetting Fraud)**

72. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “235” as though more fully set forth at length herein.

73. Denies each and every allegation contained in paragraphs “236”, “237”, “238”, “239”, “240” and “241” of plaintiff’s complaint.

## **TWENTY FIRST CAUSE OF ACTION**

**Against Rehab, Richards, Margulis, Owens and Kostynyuk**

**(Unjust Enrichment)**

74. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “242” as though more fully set forth at length herein.

75. Denies each and every allegation contained in paragraphs “243”, “244”, “245”, “246” and “247” of plaintiff’s complaint.

## **TWENTY SECOND CAUSE OF ACTION**

**Against Psych Evaluation and Richards**

**( Common Law Fraud)**

76. Defendants herein repeat and re-allege each and every denial contained in paragraphs “1” through “248” as though more fully set forth at length herein.

77. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in "249", "250" (i) through (ii), "251", "252" and "253" of plaintiff's complaint.

78. Denies each and every allegation contained in paragraph "254" of plaintiff's complaint.

### **TWENTY THIRD CAUSE OF ACTION**

**Against Margulis, Owens, and Kostynyuk**

**( Aiding and Abetting Fraud)**

79. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "255" as though more fully set forth at length herein.

80. Denies each and every allegation contained in paragraphs "256", "257", "258", "259", "260" and "261" of plaintiff's complaint.

### **TWENTY FOURTH CAUSE OF ACTION**

**Against Psych Evaluation, Richards, Margulisk, Owens and Kostynyuk**

**(Unjust Enrichment)**

81. Defendants herein repeat and re-allege each and every denial contained in paragraphs "1" through "262" as though more fully set forth at length herein.

82. Denies each and every allegation contained in paragraphs "263", "264", "265", "266" and "267" of plaintiff's complaint.

### **AS AND FOR DEFENDANT'S FIRST AFFIRMATIVE DEFENSE**

83. Plaintiffs fail to state a valid claim upon which relief can be granted against the answering defendants.

**AS AND FOR DEFENDANT'S SECOND AFFIRMATIVE DEFENSE**

84. Plaintiffs fail to plead fraud with particularity as required by the CPLR and/or the elements necessary to state a RICO claim under the applicable statutes.

**AS AND FOR DEFENDANT'S THIRD AFFIRMATIVE DEFENSE**

85. The plaintiff's complaint is barred by the applicable Statute of Limitations.

**AS AND FOR DEFENDANT'S FOURTH AFFIRMATIVE DEFENSE**

86. The plaintiff's complaint and the relief sought therein is barred by laches.

**AS AND FOR DEFENDANT'S FIFTH AFFIRMATIVE DEFENSE**

87. The plaintiff's complaint is barred by the doctrine of unclean hands.

**AS AND FOR DEFENDANT'S SIXTH AFFIRMATIVE DEFENSE**

88. The plaintiff's complaint and the relief sought therein would result in unjust enrichment.

**AS AND FOR DEFENDANT'S SEVENTH AFFIRMATIVE DEFENSE**

89. The plaintiff's complaint is barred by the doctrine of equitable estoppel.

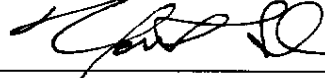
**AS AND FOR DEFENDANT'S EIGHTH AFFIRMATIVE DEFENSE**

90. Plaintiff's complaint fails to state a valid cause(s) of action because the individual non corporate defendants were exercising reasonable practice and judgment consistent with their education, training, standard of care and experience in the field of psychology.

**WHEREFORE**, Defendants YEVGENIY MARGULIS, PhD., MARY OWENS, ANDRIY KOSTYNYUK, COMPREHENSIVE PSYCHOLOGICAL EVALUATION, P.C., AMERICAN PSYCHOLOGICAL CARE, P.C., and PSYCHOLOGY YME, P.C., a/k/a PSYCHOLOGICAL YME, P.C., demand judgment dismissing the plaintiff's Complaint First through Twenty Fourth Causes of Action, together with costs, attorneys' fees and any other relief the Court deems proper.

Dated: New York, New York  
October 19, 2012

NATHAN L. DEMBIN & ASSOCIATES, PC

By:   
Nathan L. Dembin (ND 7523)

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YME, P.C.